

LORI HARPER SUEK
Assistant U.S. Attorney
U.S. Attorney's Office
James F. Battin U.S. Courthouse
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 657-6101
FAX: (406) 657-6989
E-Mail: Lori.Suek@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. AUSTIN LEE LAMB, Defendant.	CR 18-42-BLG-SPW OFFER OF PROOF
---	--

The defendant, Austin Lee Lamb, is charged by indictment in count I with theft from a federally licensed firearms dealer, in violation of 18 U.S.C. § 1951(a); and in count II with possession of stolen firearms, in violation of 18 U.S.C. § 922(j).

PLEA AGREEMENT

There is no plea agreement. Lamb will plead guilty to the indictment. Resolution of the case without a plea agreement is the most favorable resolution for Lamb. *See Missouri v. Frye*, 566 U.S. 134, 145-46 (2012).

ELEMENTS OF CHARGE

In order for Lamb to be found guilty of theft from a federally licensed firearms dealer, as charged in count I of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly and unlawfully stole a firearm;

Second, the firearm was part of the inventory of a federally licensed firearms dealer; and

Third, the firearm was not manufactured in the State of Montana.

In order for Lamb to be found guilty of possession of stolen firearms, as charged in count II of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly and unlawfully possessed a firearm;

Second, the defendant knew or had reason to believe that the firearm was stolen; and

Third, the firearm was not manufactured in the State of Montana.

PENALTY

The offenses in counts I and II each carry a maximum punishment of ten years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On April 13, 2017, at 3:30 a.m., Billings Police Department officers were dispatched to Northwest Pawn & Gun, in Billings, because an alarm went off at the business. When the officers arrived, they noticed that two doors, a pedestrian and a garage door, were open. Inside the business, the officers saw damage to cases containing firearms, and firearms appeared to be missing.

While the officers were at the business, dispatch contacted the officers to report a weapons complaint in the area of 15th Street and Miles Avenue. Two individuals were running and one had a gun. When officers arrived in the area, the complainant pointed the officers to an alley and the officers located a juvenile male, F.S. F.S. admitted that he had been with two other males and the other males had guns. Because F.S. was a juvenile, he was detained until his parents could be contacted.

Meanwhile, back at Northwest Pawn, the officers and an employee watched a recording of video surveillance, which showed three individuals on the south side of the building attempting to break into the business. Eventually one of the individuals pried open the door and the three entered the business, one with a hammer and one with bolt cutters. All were wearing pants, hoodies, facemasks, gloves, and carrying backpacks.

F.S. was interviewed with his mother present. He admitted that he snuck out of his mother's residence and was picked up by Lamb. There was a female in the passenger seat and another juvenile (later identified as A.P.), in the back seat. F.S. did not know female or A.P. F.S. admitted that the group drove to Terry Park where the three males were dropped off and the female left in the car. The three then walked to Northwest Pawn. Prior to attempting to break into the business, all three put on gloves and masks. F.S.'s role was to be the lookout. Finally, Lamb was able to pry the door open and they all went inside. F.S. admitted that he hit one of the cases with a hammer, but he did not steal any of the firearms. When they left the business, A.P. and Lamb had guns in their possession. All three split up and, as F.S. was walking home, the police picked him up.

ATF was notified of the burglary early in the morning of April 13, 2017, they began investigating. After following a series of leads to identify the third juvenile male (F.S. could not identify A.P.), and to locate Lamb and the firearms, ATF received information that one of the firearms was in a dumpster near Angry Hanks and also near where Lamb was living. ATF found a Spikes Tactical AR pistol in a dumpster in an alley behind Angry Hanks. They learned the location of the firearm from another juvenile male, L.F., who they interviewed with his mother's permission. Lamb was living with L.F. and his mother at the Bourbon Motel, which is near Angry Hanks. L.F. told ATF that Lamb had come home early in the morning, pulled out an AR-15, and told L.F. that he had just robbed a pawnshop. Soon after that statement, Lamb received a call from his probation officer and was told to report to turn himself in. After he hung up the phone, he told L.F. male that he was going to turn himself in. L.F. walked with Lamb to the probation office. On the way, Lamb threw a backpack with a gun into the dumpster by Angry Hanks.

The other firearm was recovered from the residence of another juvenile male, Q.A., who is a friend of A.P. Q.A. got the firearm from A.P. and stashed it. When ATF finally put all of the pieces together through interviews and ended up on Q.A.'s doorstep, Q.A. admitted that he received the firearm from A.P. and he

turned over the stolen firearm to ATF. When he was interviewed and turned over the firearm, his Grandfather, who is his guardian, was present.

Neither firearm was manufactured in Montana.

DATED this 12th day of June, 2018.

KURT G. ALME
United States Attorney

/s/ Lori Harper Suek
LORI HARPER SUEK
Assistant U.S. Attorney